

CITY OF CHANDLER

MILITARY POLICY

I. PURPOSE

The purpose of this policy is to inform all employees of their rights and responsibilities under the Uniformed Services Employee Reemployment Rights Act (USERRA), the Heroes Earnings Assistance and Relief Tax Act (HEART), Arizona law, and Chandler City Council actions pertaining to military leave and to ensure that the City of Chandler conforms to the provisions of these laws and actions.

II. POLICY

It is the policy of the City of Chandler to comply with the federal Uniformed Services Employee Reemployment Rights Act (USERRA), Heroes Earnings Assistance and Relief Tax Act (HEART), Arizona law and City of Chandler Council actions regarding military leave and benefits for City employees.

III. RESPONSIBILITIES

- A. It is the responsibility of the Department Directors to ensure that job rights, pay and benefits of employees that undertake military service are protected. Department Directors are also responsible for monitoring the use of paid Military leave.
- B. It is the responsibility of the Human Resources Director to provide guidance to Departments and employees regarding leaves for military service. Human Resources will coordinate military differential pay and benefits for eligible employees on military active duty.
- C. It is the responsibility of the Employee to communicate with the City in a timely manner regarding any call to military service, to monitor their usage of military leave, and to ensure that the Human Resources office is provided with a copy of military orders issued for military service. When called to military service, employees are responsible for contacting Human Resources to make arrangements for the continuation or suspension of City benefits. It is also the responsibility of the Employee to complete a power of attorney document when leaving employment for more than 30 days for military service.

IV. LEAVE FOR MILITARY SERVICE

A. Uniformed Services Employment Rights and Reemployment Act (USERRA)

USERRA protects the job rights of individuals who voluntarily or involuntarily leave employment positions to undertake military service or certain types of service in the National Disaster Medical System. USERRA also prohibits employers from discriminating or retaliating against past and present members of the uniformed services, and applicants to the uniformed

services. Employees have the right to be reemployed in their civilian job if they leave that job to perform service in the uniformed service and:

1. The employee ensures that the City of Chandler receives advance written or verbal notice of the service unless precluded by military necessity.
2. The employee has five years or less of cumulative qualifying service in the uniformed services while with the City of Chandler.
3. The employee returns to work or applies for reemployment in a timely manner after the conclusion of service.
4. The employee has not been separated from service with a disqualifying discharge or under other than honorable conditions.

Employees that are eligible to be re-employed will be restored to the job and benefits they would have attained if they had not been absent due to military service or, in some cases, a comparable job.

B. Arizona Revised Statutes

1. Arizona Revised Statute §26-168- In accordance with Arizona Revised Statute §26-168, employees who are members of the national guard or the United States armed forces reserves shall be entitled to take a leave of absence to comply with orders of the State or United States for training or active duty. Taking a military leave of absence shall not result in loss of seniority, pay, vacation or other employment rights.

2. Arizona Revised Statute §38-610- In accordance with Arizona Revised Statute §38-610, employees shall be granted leaves of absence from their duties without loss of time, pay or efficiency rating on all days during which they are employed on training duty or to attend camps, maneuvers, formations or drills under orders with any branch, reserve, or auxiliary of the armed forces of the United States for a period of not to exceed 30 days (240 hours for employees working a 40 hour per week schedule and 336 hours for employees working a 56 hour per week schedule) in any two consecutive years. The two-year period includes the current fiscal year beginning on October 1st each year and the year (beginning on October 1st) prior to the current year. Hours are not eligible to be carried forward if they are not used during the designated two-year period.

V. COMPENSATION & BENEFITS WHILE ON MILITARY LEAVE

A. Military Leave Pay- Employees are entitled to Military Leave with pay in accordance with Arizona Revised Statute §38-610.

B. Military Differential Pay- Employees are entitled to Military Differential Pay for up to 24 months when they are ordered to active duty service in response to a Presidential or Governor call up or to respond to a natural disaster. Military Differential Pay will commence after an employee exhausts the City's standard paid military leave of 30 days in two consecutive years as provided by Arizona law. Military Differential Pay will be equal to the difference between the employee's base rate of pay for the City and the base rate of pay from the military. To be eligible for Differential Pay, the employee must provide the City

Human Resources Office with a copy of his/her active duty orders and official documentation of his/her base rate of military pay. Differential Pay is not considered compensation for Arizona State Retirement System purposes.

Employees that volunteer for military service are not eligible for Military Differential Pay.

C. Leave Accrual Pay- Employees on active duty military leave may use available leave accruals in accordance with the City Personnel Rules or by Memorandum of Understanding.

D. Regular Hours Worked Pay- Employees on active duty military leave shall not work any regular hours during their military leave.

E. Overtime Pay- Employees on active duty military leave will be eligible for overtime pay only when they meet the eligibility requirements to receive overtime pay.

F. Holiday Pay- Employees that receive Holiday Pay and/or Holiday Accrual Leave for City Holidays in accordance with the City of Chandler Personnel Rules or by Memorandum of Understanding will continue to be eligible to receive their holiday pay and accrual for each City holiday when on active duty military leave and in a paid status.

G. Pay Increases/Performance Review Dates- Employees on active duty military leave of more than 30 working days may have their performance review date adjusted to reflect the military leave of absence. Employees on active duty military leave will be eligible to receive pay increases provided to all employees. Pay increases associated with the employee's performance will be processed during the military leave at the department's discretion.

H. Compliance with the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART)- The City's 457 Plan complies with the requirements of the HEART Act that relate to differential pay as compensation, deemed severance distributions, and survivor benefits.

I. Medical, Dental, and Vision Insurance- Eligible employees on active duty military leave may continue medical, dental, and vision insurance at the City of Chandler's employee contribution rate for up to 24 months. Premium payments must be coordinated with Human Resources. After 24 months, the employee and eligible dependents may elect to continue coverage through a COBRA continuation election.

J. City Basic Group Life Insurance/AD&D- Eligible employees on active duty military leave shall have insurance continue to the end of the month in which they commence active military duty. The employee's coverage shall be reinstated if the employee returns to regular City employment within 24 months. If the employee returns to regular City employment after 24 months it will be necessary to re-enroll within 31 days of returning to work with coverage beginning the 1st of the month following 30 days of reinstated employment. During the period of the leave, the employee may convert the insurance to a private policy.

K. Voluntary Life Insurance- Eligible employees on active duty military leave shall have voluntary life insurance continue to the end of the month in which they commence active military duty. This applies to the employee and any dependent coverage. The employee and dependents' coverage shall be reinstated on the date of returning to regular City employment at the same amount they had prior to the leave. During the period of the leave, the employee may convert or port the insurance to a private policy.

L. Commuter Life Insurance, Short Term Disability, Employee Assistance Program, Retirement Health Savings Plan, Workers' Compensation- Commuter Life Insurance and the Employee Assistance Program will remain in effect under the provisions of the current policies for the duration of the approved leave. Short Term Disability and Workers' Compensation will end the last day the eligible employee is at work prior to commencing active military leave. The employee's coverage will be reinstated on the date of returning to regular City employment. Retirement Health Savings Plan employer contributions will continue while an eligible employee on active duty military leave remains in a paid status.

M. Other Voluntary Benefits- Employees on active duty military leave have the option to continue other optional benefits at the employee's contribution rate for the entire time period of the active military duty. Premium payments must be coordinated with Human Resources. Voluntary benefits may include benefits such as Flexible Spending Accounts, Deferred Compensation contributions, and Auto Insurance through payroll deduction.

N. Vacation and Sick Leave- Employees on active duty military leave will continue to accrue vacation and sick leave while on a paid status from the City. Vacation and sick leave accruals will cease in the case of an unpaid military leave. Any unpaid absence as a result of unpaid military leave will be counted as service for the purposes of determining vacation accrual rates.

O. Retirement Credit for Military Service- Employees on active duty military leave will be eligible to receive retirement credit for the Public Safety Personnel Retirement System or the Arizona State Retirement System in accordance with Arizona Revised Statute §38-745 for Arizona State Retirement System members or Arizona Revised Statute§38-858 for Public Safety Personnel Retirement System members.

Arizona State Retirement System- Employee member contributions and City employer contributions for the period the employee is on active duty military leave shall be made in a lump sum payment when the employee returns to regular City employment and meets applicable requirements under State and Federal law.

Public Safety Personnel Retirement System- If a member performs military service due to a presidential call-up , not to exceed 48 months, employee member contributions and City employer contributions shall be suspended during the employee's active duty military leave and all contributions due in accordance with Arizona Revised Statutes and the Uniformed Services Employee Reemployment Rights Act will be made in a lump sum payment when the

employee returns to regular City employment and meets applicable requirements under State and Federal law. A member that volunteers or is ordered (under a non-presidential call up) to perform military service may receive credited service for not more than 60 months of military service in accordance with Arizona Revised Statutes and the Uniformed Services Employee Reemployment Rights Act. The City will make the employer contributions and the member shall make the member contributions when the employee meets applicable requirements under State and Federal law.

VI. REEMPLOYMENT FOLLOWING MILITARY LEAVE

A. Employees have the right to re-employment if all conditions in Section IV.A (1-4) are met.

B. Upon release from active duty military leave an employee must notify the City of his/her intent to return to work in accordance with the following requirements of the Uniformed Services Employee Reemployment Rights Act:

1. An employee who has served less than 31 days shall return to work on the first regularly scheduled work day following the end date of military service, plus allowance for reasonable travel time to their home, plus allowance for 8 hours to rest.
2. An employee who has served at least 31 days but less than 181 days shall return to work as soon as possible, but no later than 14 days after completing military service.
3. An employee who has served 181 days or more shall return to work no later than 90 days after completion of military service.

The employee must provide the Human Resources Office with a copy of his/her DD214 in order to establish the end date of the active duty military leave and the employee's honorable discharge from military service.

C. Upon return from military service, employees that served on active duty military leave shall retain all seniority rights as if they had remained continuously employed.

D. Employees that are serving a probationary period when called to active duty military leave shall have the probationary period extended by the length of the military leave of absence.

E. Employees that opted to discontinue benefit coverage while on active duty military leave will have their benefits reinstated on the date of returning to regular City employment.

F. Re-employment of an employee is not required if the City's circumstances have so changed as to make such re-employment impossible or unreasonable; re-employment of the employee would impose an undue hardship on the City; or the employment from which the employee left to serve in the uniformed services was

for a brief, nonrecurrent period and there was no reasonable expectation that such employment would continue indefinitely or for a significant period.

VII. NON-DISCRIMINATION

A. A person who is a member of, applies to be member of, performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service branch shall not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment by the City on the basis of that membership, application for membership, performance of service, application for service or obligation.

B. Employees who participate in the reporting, investigation, or filing of claims of violations of USERRA, regardless of whether they themselves performed uniformed service, may not be retaliated against.

C. An employee who believes a violation of this policy has occurred should immediately contact Human Resources to report the violation.

VIII. APPROVAL

Ruth Duggs
City Manager

1-9-15
Date